

119 FERC ¶ 61,119
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Calypso U.S. Pipeline, LLC

Docket Nos. CP01-409-007
CP01-410-006
CP01-411-009
and CP01-444-006

ORDER ON REHEARING
AND AMENDING CERTIFICATE AUTHORITY

(Issued May 4, 2007)

1. Calypso U.S. Pipeline, LLC (Calypso) has filed a timely request for rehearing of the Commission's January 25, 2007 Order denying Calypso's request for modification of the condition that it may not commence construction until the Commonwealth of the Bahamas has authorized a liquefied natural gas (LNG) terminal in the Bahamas and pipeline facilities to interconnect at the U.S./Bahamas Exclusive Economic Zone (EEZ) boundary with Calypso's authorized pipeline.¹ This order grants, subject to certain conditions, Calypso's request for rehearing so that it will be authorized to commence construction upon either (1) the Bahamian government's granting authorizations for an LNG terminal and interconnecting pipeline facilities or (2) authorization being granted by the U.S. Maritimes Administration (MARAD) for offshore LNG facilities under the Deepwater Port Act.

Background

2. On March 24, 2004, the Commission authorized Calypso to construct and operate its proposed pipeline including an approximately 5.8-mile long onshore segment in

¹ 118 FERC ¶ 61,051 (2007) (January 25, 2007 Order).

Florida and an approximately 36-mile long offshore segment to interconnect at the EEZ with a planned non-jurisdictional offshore pipeline to transport regasified LNG from a proposed LNG storage terminal in Freeport, Grand Bahama Island.² The January 25, 2007 Order granted Calypso's request for amendment of its certificate to authorize construction of a tunnel to house a portion of its sub-sea pipeline facilities, increase the pipeline diameter, increase initial rates and extend Calypso's construction deadline.

3. The January 25, 2007 Order denied Calypso's request for modification of Ordering Paragraph (F) of the March 24, 2004 certificate order conditioning the start of Calypso's construction upon its affiliates receiving authorization from the Bahamian government to construct an LNG terminal and pipeline to interconnect at the EEZ with Calypso's pipeline. In its May 9, 2006 application for certificate amendment, Calypso emphasized that its affiliates continue to pursue Bahamian authorization but asked the Commission to consider an alternative authorization. Calypso explained that it now plans to also interconnect with its affiliate SUEZ Calypso's proposed deepwater LNG port to be located approximately 10 miles off the coast of Florida to the northeast of Port Everglades.³

4. Therefore, Calypso's application for certificate amendment sought approval for Calypso to commence construction upon either (1) an affiliate receiving Bahamian authorization for an LNG terminal in the Bahamas and pipeline facilities extending to the EEZ boundary or (2) MARAD's authorization of SUEZ Calypso's proposed LNG port off the coast of Florida under the Deepwater Port Act. However, Calypso acknowledged the possibility that its affiliates may be unsuccessful in obtaining the necessary authorizations for the Bahamian LNG terminal and pipeline.

5. Because Calypso had not filed an application for authorization to construct pipeline facilities to interconnect with SUEZ Calypso's proposed deepwater LNG port, the Commission concluded in the January 25, 2007 Order that it could not grant the requested modification of the condition on commencement of construction. The Commission explained that if it turns out that Calypso needs both interconnections or just

² *Tractebel Calypso Pipeline, LLC*, 103 FERC ¶ 61,106 (2003) (preliminary determination on non-environmental issues) and 106 FERC ¶ 61,273 (2004) (order issuing certificate under NGA section 7 for pipeline facilities, siting authorization under NGA section 3 for import facilities and Presidential Permit for border crossing facilities) (March 24, 2004 Order).

³ SUEZ Calypso filed its application with MARAD on March 2, 2006.

a deepwater port interconnection, Calypso would have to file another application in either case to seek approval of a revised pipeline route and facilities and revised initial section 7 rates. The Commission also explained that if both interconnections are to be built, tariff changes presumably would be required to provide for segmentation, flexible point rights and within the path allocation priority provisions, issues that did not come into play when the Commission reviewed Calypso's application proposing only one receipt point, *i.e.*, the interconnection at the EEZ.

Discussion

6. In its request for rehearing, Calypso clarifies that it would not need to construct a lateral from its authorized pipeline in order to receive gas from SUEZ Calypso's proposed deepwater LNG port since SUEZ Calypso's application before MARAD includes pipeline facilities to extend from the deepwater LNG terminal to two receipt points on Calypso's Commission approved pipeline. SUEZ Calypso's deepwater LNG port would interconnect with Calypso's pipeline at two points approximately 10 miles from the Florida shore. Thus, if the Bahamian government does not authorize an LNG terminal and pipeline facilities to extend to the EEZ, but MARAD grants SUEZ Calypso's application under the Deepwater Port Act, Calypso will only need to construct the first 10-mile portion of its authorized 36-mile pipeline.

7. If only the deepwater LNG port is authorized, Calypso clarifies that it will file another application to amend its certificate in order to adjust its cost of service and initial rates. Further, although Calypso will not need to construct any additional pipeline if both the Bahamian facilities and SUEZ Calypso's deepwater port facilities are authorized, Calypso recognizes that it will still need to file another application to address such matters as segmentation, flexible point rights and within the path allocation priority.

8. In view of the clarification provided by Calypso's request for rehearing, the Commission will grant rehearing to provide for Calypso's commencement of construction upon (1) the Bahamian government's authorization of an LNG terminal and pipeline facilities to interconnect at the EEZ with Calypso's pipeline or (2) MARAD's authorization of SUEZ Calypso's proposed deepwater LNG port project, including pipeline facilities to interconnect with Calypso's authorized pipeline facilities. Under the second condition, until and unless Bahamian authorization to construct an LNG terminal and pipelines facilities to connect with Calypso at the EEZ is issued, Calypso will be authorized to commence construction only on that part of its pipeline extending from onshore Florida to the deepwater port's facilities. Calypso will not be authorized to construct pipeline facilities extending beyond the deepwater port interconnections to the EEZ unless the Bahamian LNG terminal and associated pipeline are authorized.

9. The Commission's March 24, 2004 Order in this proceeding approved initial rates for Calypso based on its estimated cost of service if it constructs a pipeline long enough to interconnect with a Bahamian pipeline at the EEZ. In view of this order's grant of rehearing to authorize Calypso's commencement of construction if MARAD approves SUEZ Calypso's proposed deepwater LNG port project, the Commission will require Calypso to file, within 60 days, proposed rates and supporting worksheets for service to the deepwater port. If MARAD approves SUEZ Calypso's deepwater port but the Bahamian government has not authorized LNG and pipeline facilities, Calypso will not be authorized to commence construction until the Commission has approved initial rates that are based on Calypso's projected cost of service for the facilities necessary to receive regasified LNG from SUEZ Calypso's deepwater port, *i.e.*, revised initial rates which do not reflect costs associated with extending the pipeline to the EEZ. Calypso's certificate authority also will be conditioned so that, in the event both the Bahamian project and the deepwater port project have been authorized and Calypso has started receiving gas from either project's facilities, Calypso will not be authorized to begin receiving gas from the other project's facilities until it has proposed and the Commission has approved any necessary and appropriate tariff provisions.

10. The Commission on its own motion, received and made a part of the record all evidence, including the application (s), as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) Calypso's February 16, 2006 request for rehearing is granted subject to the conditions set forth herein.

(B) Calypso's certificate authority is amended by replacing the condition in Ordering Paragraph (F) of the March 24, 2004 Order and in Ordering Paragraph (H) of the January 25, 2007 Order with the following condition:

Prior to commencing construction, Calypso U.S. Pipeline, LLC shall provide the Commission with evidence that (1) its affiliates have received all authorizations and approvals either from the Commonwealth of the Bahamas for the Bahamian portions of the project or (2) SUEZ Calypso has received authorization under the Deepwater Port Act for its proposed deepwater LNG port off the coast of Florida. In the event that the deepwater port receives authorization before the Bahamas facilities are authorized, Calypso is authorized to commence construction only on that part of the Calypso pipeline extending from onshore

Florida to receipt points at interconnections with the deepwater port. Upon Calypso's affiliates' receipt of the Bahamian government's authorization for an LNG terminal and associated pipeline extending to the EEZ, Calypso is authorized to construct all of the pipeline facilities authorized by the March 24, 2004 certificate.

(C) Calypso shall file, within 60 days of this order, proposed initial section 7 rates for service to SUEZ Calypso's proposed deepwater LNG port project, consistent with the Commission's directions in this order.

(D) Calypso's certificate authority is further amended and conditioned so that, if MARAD approves SUEZ Calypso's deepwater LNG port project but the Bahamian government has not authorized LNG and pipeline facilities, Calypso will not be authorized to commence construction until it has filed for and the Commission has approved revised initial rates based on Calypso's projected cost of service for the facilities necessary to receive regasified LNG from SUEZ Calypso's deepwater port.

(E) Calypso's certificate authority is further amended and conditioned so that, in the event both the Bahamian project to the EEZ and the deepwater port projects have been authorized and Calypso has started receiving gas from either project's facilities, Calypso will not be authorized to begin receiving gas from the other project's facilities until it has proposed and the Commission has approved any necessary and appropriate tariff provisions.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.